

**UNITED STATES BANKRUPTCY COURT
District of New Jersey**

IN RE: **Rogério M Andre**

Debtor(s)

Case No.: **16-11668**

Judge: **CMG**

Chapter: **13**

CHAPTER 13 PLAN AND MOTIONS - AMENDED

☐ Original

☒ Motions Included

☒ Modified/Notice Required

☐ Modified/No Notice Required

☒ Discharge Sought

☐ No Discharge Sought

Date: 6-12-2017

THE DEBTOR HAS FILED FOR RELIEF UNDER
CHAPTER 13 OF THE BANKRUPTCY CODE.

YOUR RIGHTS WILL BE AFFECTED.

You should have received from the court a separate *Notice of the Hearing on Confirmation of Plan*, which contains the date of the confirmation hearing on the Plan proposed by the Debtor. This document is the actual Plan proposed by the Debtor to adjust debts. You should read these papers carefully and discuss them with your attorney. Anyone who wishes to oppose any provision of this Plan or any motion included in it must file a written objection within the time frame stated in the Notice. **This Plan may be confirmed and become binding, and included motions may be granted without further notice or hearing, unless written objection is filed before the deadline stated in the Notice.**

**YOU SHOULD FILE A PROOF OF CLAIM BY THE DEADLINE STATED
IN THE NOTICE TO RECEIVE DISTRIBUTIONS UNDER ANY PLAN
THAT MAY BE CONFIRMED, EVEN IF THE PLAN REFERS TO YOUR CLAIM**

Part 1: Payment and Length of Plan

a. The Debtor shall pay 400.00 Monthly to the Chapter 13 Trustee, starting on 9/1/2017 for approximately 40 months.

b. The Debtor shall make plan payments to the Trustee from the following sources:

☒

Future Earnings

☐

Other sources of funding (describe source, amount and date when funds are available):

c. Use of real property to satisfy plan obligations:

☐ Sale of real property
Description:
Proposed date for completion: _____

☐ Refinance of real property
Description:
Proposed date for completion: _____

☒ Loan modification with respect to mortgage encumbering property
Description: 41 Sunset Avenue, Old Bridge, NJ 08857
Proposed date for completion: 10/31/17 or as extended by
court order. _____

d. ☐ The regular monthly mortgage payment will continue pending the sale, refinance or loan modification.

e. ☒ Other information that may be important relating to the payment and length of plan: Debtor has obtained a trial modification.

Part 2: Adequate Protection

a. Adequate protection payments will be made in the amount of \$ ____ to be paid to the Chapter 13 Trustee and disbursed pre-confirmation to ____ (creditor).

b. Adequate protection payments will be made in the amount of \$ 3178.15 to be paid directly by the debtor(s) outside of the Plan, pre-confirmation to Shellpoint Mortgage (creditor).

Part 3: Priority Claims (Including Administrative Expenses)

All allowed priority claims will be paid in full unless the creditor agrees otherwise:

Creditor	Type of Priority	Amount to be Paid
Harvey I Marcus 8635	Attorney Fees	2,000.00
Harvey I Marcus 8635	Attorney fees	per court order

Part 4: Secured Claims

a. Curing Default and Maintaining Payments

The Debtor shall pay to the Trustee (as part of the Plan) allowed claims for arrearages on monthly obligations and the Debtor shall pay directly to the creditor (outside the Plan) monthly obligations due after the bankruptcy filing as follows:

Creditor	Collateral or Type of Debt	Arrearage	Interest Rate on Arrearage	Amount to be Paid to Creditor (In Plan)	Regular Monthly Payment (Outside Plan)
Shellpoint Mortgage Servicing	41 Sunset Avenue Old Bridge, NJ 08857-1268 Middlesex County Residence at: 41 Sunset Ave, Old Bridge, NJ 08857-1268	157,833.43	0.00	157,833.43	payment shall be the trial payment of \$3,178.15

Debtor will pay the monthly trial modification payment pending the outcome of loss mitigation.

b. Modification

1.) The Debtor values collateral as indicated below. If the claim may be modified under Section 1322(b)(2), the secured creditor shall be paid the amount listed as the "Value of the Creditor Interest in Collateral," plus interest as stated. The portion of any allowed claim that exceeds that value shall be treated as an unsecured claim. If a secured claim is identified as having "NO VALUE" it shall be treated as an unsecured claim.

NOTE: A modification under this section ALSO REQUIRES the appropriate motion to be filed under Section 7 of the Plan.

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Superior Liens	Value of Creditor Interest in Collateral	Annual Interest Rate	Total Amount to Be Paid
The Bank of New York Mellon	41 Sunset Avenue, Old Bridge, NJ 08857	51,000.00	365000	400916	no interest	0.00	0.00

2.) Where the Debtor retains collateral and completes the Plan, payment of the full amount of the allowed secured claim shall discharge the corresponding lien.

c. Surrender

Upon confirmation, the stay is terminated as to surrendered collateral. The Debtor surrenders the following collateral:

Creditor	Collateral to be Surrendered	Value of Surrendered Collateral	Remaining Unsecured Debt
-NONE-			

d. Secured Claims Unaffected by the Plan

The following secured claims are unaffected by the Plan:

Creditor
-NONE-

e. Secured Claims to be paid in full through the Plan

Creditor	Collateral	Total Amount to be Paid through the Plan
-NONE-		

Part 5: Unsecured Claims

a. Not separately classified Allowed non-priority unsecured claims shall be paid:

____ Not less than \$ ____ to be distributed *pro rata*

____ Not less than ____ percent

 x *Pro Rata* distribution from any remaining funds

b. Separately Classified Unsecured Claims shall be treated as follows:

Creditor	Basis for Separate Classification	Treatment	Amount to be Paid
-NONE-			

Part 6: Executory Contracts and Unexpired Leases

All executory contracts and unexpired leases are rejected, except the following, which are assumed:

Creditor	Nature of Contract or Lease	Treatment by Debtor
-NONE-		

Part 7: Motions

NOTE: All plans containing motions must be served on all potentially affected creditors, together with local form, Notice of Chapter 13 Plan Transmittal, within the time and in the manner set forth in D.N.J. LBR 3015-1. A Certification of Service must be filed with the Clerk of Court when the plan and transmittal notice are served.

a. Motion to Avoid Liens under 11 U.S.C. Section 522(f).

The Debtor moves to avoid the following liens that impair exemptions:

Creditor	Nature of Collateral	Type of Lien	Amount of Lien	Value of Collateral	Amount of Claimed Exemption	Sum of All Other Liens Against the Property	Amount of Lien to be Avoided
The Bank of New York Mellon as Trustee	Residence at: 41 Sunset Ave, Old Bridge, NJ 08857-1268	Second Mortgage	51,803.00	365,000.00	22,975.00	400,916.61	all

b. Motion to Avoid Liens and Reclassify Claim from Secured to Completely Unsecured.

The Debtor moves to reclassify the following claims as unsecured and to void liens on collateral consistent with Part 4 above:

Creditor	Collateral	Amount of Lien to be Reclassified
-NONE-		

c. Motion to Partially Void Liens and Reclassify Underlying Claims as Partially Secured and Partially Unsecured.

The Debtor moves to reclassify the following claims as partially secured and partially unsecured, and to void liens on collateral consistent with Part 4 above:

Creditor	Collateral	Amount to be Deemed Secured	Amount to be Reclassified as Unsecured
-NONE-			

Part 8: Other Plan Provisions

a. Vesting of Property of the Estate

- ☒ Upon Confirmation
☐ Upon Discharge

b. Payment Notices

Creditors and Lessors provided for in Parts 4, 6 or 7 may continue to mail customary notices or coupons to the Debtor notwithstanding the automatic stay.

c. Order of Distribution

The Trustee shall pay allowed claims in the following order:

- 1) Trustee Commissions
- 2) Other Administrative Claims
- 3) Priority Claims
- 4) Secured Claims
- 5) Lease Arrearages
- 6) General Unsecured Claims

d. Post-petition claims

The Trustee ☒ is, ☐ is not authorized to pay post-petition claims filed pursuant to 11 U.S.C. Section 1305(a) in the amount filed by the post-petition claimant.

Part 9 : Modification

If this plan modifies a plan previously filed in this case, complete the information below.

Date of Plan being modified: _____.

Explain below why the Plan is being modified.	Explain below how the Plan is being modified
debtor has obtained a trial modification	Part 1a \$400.00. Part 2b adequate protection in the amount of the trial payment. Part 4a adequate protection payment in the amount of the trial payment. art 4d remove Nationwide acceptance. Part 4e remove GE Capital. Part 5a pro rata Plan.

Are Schedules I and J being filed simultaneously with this modified Plan? ☒ Yes ☐ No

Part 10: Sign Here

The debtor(s) and the attorney for the debtor (if any) must sign this Plan.

Date June 12, 2017 /s/ Harvey I Marcus
Harvey I Marcus 8635
Attorney for the Debtor

I certify under penalty of perjury that the foregoing is true and correct.

Date: June 12, 2017 /s/ Rogerio M Andre
Rogerio M Andre
Debtor

Date: _____
Joint Debtor

Certificate of Notice Page 6 of 7
 United States Bankruptcy Court
 District of New Jersey

In re:
 Rogerio M Andre
 Debtor

Case No. 16-11668-CMG
 Chapter 13

CERTIFICATE OF NOTICE

District/off: 0312-3

User: admin
 Form ID: pdf901

Page 1 of 2
 Total Noticed: 52

Date Rcvd: Jun 13, 2017

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jun 15, 2017.

db Rogerio M Andre, 41 Sunset Ave, Old Bridge, NJ 08857-1268
 cr +DITECH FINANCIAL, LLC, Phelan Hallinan & Schmieg, PC, 400 Fellowship Road, Suite 100, Mt. Laurel, NJ 08054-3437
 lm Grenn Tree/Ditech, Po Box 6154, Rapid City, SD 57709-6154
 cr +THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YO, c/o Koury Tighe Lapres Bisulca & Sommers, 1423 Tilton Rd, Suite 9, Northfield, NJ 08225-1857
 515972173 +Amex Dsnb, 9111 Duke Blvd, Mason, OH 45040-8999
 515972174 +BANK OF AMERICA, PO BOX 982238, EL PASO TX 79998-2238
 (address filed with court: Bank of America, P.O. Box 982236, El Paso, TX 79998)
 515972175 Bank of America, 4060 Ogletown/Stanton Rd, Newark, DE 19713
 516196847 +Cavalry Spv I, LLC, Bass & Associates, P.C., 3936 E. Ft. Lowell Road, Suite #200, Tucson, AZ 85712-1083
 515972177 +Citibank / Sears, Po Box 6497, Sioux Falls, SD 57117-6497
 515972176 +Citibank / Sears, Citicorp Credit Services/Attn: Centraliz, Po Box 790040, Saint Louis, MO 63179-0040
 515972179 +Citibank/The Home Depot, Po Box 6497, Sioux Falls, SD 57117-6497
 515972178 +Citibank/The Home Depot, Citicorp Credit Svcs/Centralized Bankrup, Po Box 790040, Saint Louis, MO 63179-0040
 516195184 Department Store National Bank, c/o Quantum3 Group LLC, PO Box 657, Kirkland, WA 98083-0657
 515972182 +Dsnb Macys, Macys Bankruptcy Department, Po Box 8053, Mason, OH 45040-8053
 515972183 +Dsnb Macys, Po Box 8218, Mason, OH 45040-8218
 515972186 +Hsbc/yamaha, Attn: Bankruptcy, Po Box 5264, Carol Stream, IL 60197-5264
 515972187 +Hsbc/yamaha, Po Box 30253, Salt Lake City, UT 84130-0253
 515972189 +Kay Jewelers/Sterling Jewelers Inc., Sterling Jewelers Inc; Attn: Bankruptcy, Po Box 1799, Akron, OH 44309-1799
 516366345 MTGLQ Investors, L.P, c/o Shellpoint Mortgage Serving, PO Box 10826, Greenville, SC 29603-0826
 516103467 +Midland Funding LLC, PO Box 2011, Warren MI 48090-2011
 515972192 +Nationwide Acceptance, 450 American St, Simi Valley, CA 93065-6285
 515972193 +Phelan Hallinan Diamond & Jones, PC, 400 Fellowship Rd, Ste 100, Mount Laurel, NJ 08054-3437
 516187620 +Pinnacle Credit Services, LLC its successors and, assigns as assignee of Cellco, Partnership d/b/a Verizon Wireless, Resurgent Capital Services, PO Box 10587, Greenville, SC 29603-0587
 515972198 State of New Jersey, PO Box 245, Trenton, NJ 08602-0245
 516692174 +The Bank of New York Mellon as Trustee c/o, Frenkel Lambert Weis LLP, 80 Main Street, Suite 460, West Orange, NJ 07052-5414
 515972206 +Tnb-Visa (TV) / Target, Po Box 673, Minneapolis, MN 55440-0673
 515972205 +Tnb-Visa (TV) / Target, C/O Financial & Retail Services, Mailstop BV P.O.Box 9475, Minneapolis, MN 55440-9475

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

smg E-mail/Text: usanj.njbankr@usdoj.gov Jun 13 2017 22:19:21 U.S. Attorney, 970 Broad St., Room 502, Rodino Federal Bldg., Newark, NJ 07102-2534
 smg +E-mail/Text: ustpreion03.ne.ecf@usdoj.gov Jun 13 2017 22:19:17 United States Trustee, Office of the United States Trustee, 1085 Raymond Blvd., One Newark Center, Suite 2100, Newark, NJ 07102-5235
 lm +E-mail/Text: cowens@nationwideacceptance.com Jun 13 2017 22:19:52 Nationwide Acceptance, 105 Decker Court, Suite 725, Irving, TX 75062-2815
 515972181 E-mail/Text: mrdiscen@discover.com Jun 13 2017 22:18:34 Discover Financial, Po Box 15316, Wilmington, DE 19850
 515990924 E-mail/Text: mrdiscen@discover.com Jun 13 2017 22:18:34 Discover Bank, Discover Products Inc, PO Box 3025, New Albany, OH 43054-3025
 515972180 +E-mail/Text: mrdiscen@discover.com Jun 13 2017 22:18:34 Discover Financial, Attention: Bankruptcy Department, Po Box 3025, New Albany, OH 43054-3025
 516198138 E-mail/Text: bankruptcy.bnc@ditech.com Jun 13 2017 22:19:04 Ditech Financial LLC, f/k/a Green Tree Servicing LLC, P.O. Box 6154, Rapid City, SD 57709-6154
 515972184 +E-mail/PDF: gecsed@recoverycorp.com Jun 13 2017 22:11:35 GE Capital Bank, 901 Main Ave, Norwalk, CT 06851-1168
 515972185 E-mail/Text: bankruptcy.bnc@ditech.com Jun 13 2017 22:19:04 Green Tree Servicing, Attention: Bankruptcy Dept, Po Box 6154, Rapid City, SD 57709
 515972188 +E-mail/Text: cio.bncmail@irs.gov Jun 13 2017 22:18:50 Internal Revenue Service, Centralized Insolvency Operation, PO Box 7346, Philadelphia, PA 19101-7346
 515972190 +E-mail/Text: ebnssterling@weltman.com Jun 13 2017 22:19:07 Kay Jewelers/Sterling Jewelers Inc., 375 Ghent Rd, Fairlawn, OH 44333-4601
 515972191 +E-mail/Text: cowens@nationwideacceptance.com Jun 13 2017 22:19:52 Nationwide Acceptance, 105 Decker Ct. Suite 725, Irving, TX 75062-2815
 516196570 E-mail/PDF: PRA_BK2_CASE_UPDATE@portfoliorecovery.com Jun 13 2017 22:33:46 Portfolio Recovery Associates, LLC, c/o Sears Gold Mastercard, POB 41067, Norfolk VA 23541
 515972194 +E-mail/PDF: resurgentbknofications@resurgent.com Jun 13 2017 22:11:43 Pinnacle Credit Service, Attn: Bankruptcy, Po Box 640, Hopkins, MN 55343-0640

District/off: 0312-3

User: admin
Form ID: pdf901

Page 2 of 2
Total Noticed: 52

Date Rcvd: Jun 13, 2017

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center (continued)

515972195	+E-mail/PDF: resurgentbknofications@resurgent.com Jun 13 2017 22:12:12 Pinnacle Credit Service, Po Box 640, Hopkins, MN 55343-0640	
515972196	+E-mail/PDF: gecsedirecoverycorp.com Jun 13 2017 22:11:35 Attention: Bankruptcy Department, Po Box 103104, Roswell, GA 30076-9104	Sams Club / GEMB,
515972197	+E-mail/PDF: gecsedirecoverycorp.com Jun 13 2017 22:11:50 Orlando, FL 32896-5005	Sams Club / GEMB, Po Box 965005,
515972199	+E-mail/PDF: gecsedirecoverycorp.com Jun 13 2017 22:11:35 Attn: Bankruptcy, Po Box 103104, Roswell, GA 30076-9104	Syncb/toysrusdc,
515972200	+E-mail/PDF: gecsedirecoverycorp.com Jun 13 2017 22:12:04 Orlando, FL 32896-5005	Syncb/toysrusdc, Po Box 965005,
516798665	+E-mail/PDF: gecsedirecoverycorp.com Jun 13 2017 22:12:05 GE Capital Retail Bank, 170 West Election Road, Suite 125,	Synchrony Bank formerly known as,
515972202	+E-mail/PDF: gecsedirecoverycorp.com Jun 13 2017 22:11:35 Po Box 965005, Orlando, FL 32896-5005	Draper, UT 84020-6425 Synchrony Bank/ Old Navy,
515972201	+E-mail/PDF: gecsedirecoverycorp.com Jun 13 2017 22:11:35 Attention: GEMB, Po Box 103104, Roswell, GA 30076-9104	Synchrony Bank/ Old Navy,
515972203	+E-mail/PDF: gecsedirecoverycorp.com Jun 13 2017 22:11:35 Attn: Bankruptcy, Po Box 103104, Roswell, GA 30076-9104	Synchrony Bank/Gap,
515972204	+E-mail/PDF: gecsedirecoverycorp.com Jun 13 2017 22:11:50 Po Box 965005, Orlando, FL 32896-5005	Synchrony Bank/Gap,
516167940	+E-mail/Text: bncmail@w-legal.com Jun 13 2017 22:19:32 C O WEINSTEIN & RILEY, PS, 2001 WESTERN AVENUE, STE 400,	TD Bank USA, N.A., SEATTLE, WA 98121-3132 TOTAL: 25

***** BYPASSED RECIPIENTS *****

NONE.

TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

Addresses marked '++' were redirected to the recipient's preferred mailing address
pursuant to 11 U.S.C. 342(f)/Fed.R.Bank.PR.2002(g)(4).

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jun 15, 2017

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on June 12, 2017 at the address(es) listed below:

Albert Russo on behalf of Trustee Albert Russo docs@russotrustee.com
Albert Russo docs@russotrustee.com
Alexandra T. Garcia on behalf of Creditor Ditech Financial LLC, as authorized servicer for
Fannie Mae, as owner and holder of account/contract originated by BANK OF AMERICA
NJECFMAIL@mw-c-law.com
Andrew L. Spivack on behalf of Creditor DITECH FINANCIAL, LLC nj.bkecf@fedphe.com
Denise E. Carlon on behalf of Creditor MTGLQ INVESTORS, L.P. dcarlon@kmlawgroup.com,
bkgroup@kmlawgroup.com
Harvey I. Marcus on behalf of Debtor Rogerio M Andre him@lawmarcus.com
Sean M. O'Brien on behalf of Creditor THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK,
AS THE TRUSTEE FOR THE BENEFIT OF THE CERTIFICATEHOLDERS OF THE CWHEQ INC., HOME EQUITY LOAN
ASSET-BACKED CERTIFICATES, SERIES 2006-S2 sobrien@flwlaw.com

TOTAL: 7